TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

200217059

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Uniform Issue List: 408.06-00

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Legend:

Company M=
Company N=

Dear :

This is in response to correspondence dated August 28, 2000, and December 18, 2000, in which you request a ruling under section 408(m) of the Internal Revenue Code ("Code").

You submitted the following facts and representations in support of your request:

Company M and its affiliate, Company N, are non-bank entities that provide precious metals administration and safekeeping services to various customers.

Based on the above facts and representations you request the following ruling:

That trustees of Individual Retirement Accounts (IRAs) may utilize the precious metals administration and safekeeping services of Company M and its affiliate, Company N, with respect to bullion coins and bullion bars that are assets of such IRAs and not have such bullion coins and bullion bars constitute collectibles under section 408(m) of the Code.

Section 408(m)(1) of the Code provides, in pertinent part, that the acquisition of a collectible by an individual retirement account shall be treated as a distribution from such account in an amount equal to the cost to such account of such collectible.

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Section 408(m)(2) of the Code provides that for purposes of section 408(m), the term "collectible" means (A) any work of art, (B) any rug or antique, (C) any metal or gem, (D) any stamp or coin, (E) any alcoholic beverage, or (F) any other tangible personal property specified by the Secretary for purposes of section 408(m).

Section 408(m)(3) of the Code provides that for purposes of section 408(m), the term "collectible" shall not include (A) any coin which is (i) a gold coin described in paragraph (7), (8), (9), or (10) of section 5112(a) of title 31, United States Code, (ii) a silver coin described in section 5112(e) of title 31, United States Code, (iii) a platinum coin described in section 5112(k) of title 31, United States Code, or (iv) a coin issued under the laws of any State, or (B) any gold, silver, platinum or palladium bullion of a fineness equal to or exceeding the minimum fineness that a contract market (as described in section 7 of the Commodity Exchange Act, 7 U.S.C. 7) requires for metals which may be delivered in satisfaction of a regulated futures contract, if such bullion is in the physical possession of a trustee described in section 408(a).

Sections 408(m)(2)(C) and 408(m)(2)(D) of the Code define collectible, for purposes of section 408(m) of the Code, as including any metal or gem and any stamp or coin, respectively. The only exception to classifying bullion as a collectible, for purposes of section 408(m), relates to any gold, silver, platinum, or palladium bullion of a fineness equal to or exceeding the minimum fineness that a contract market requires for metals which may be delivered in satisfaction of a regulated futures contract, if such bullion is in the physical possession of a trustee. This limited exception applies only if a certain type of bullion is in the physical possession of the IRA trustee. In this case, all of the bullion coins and bullion bars at issue are in the physical possession of Company M or Company N, not the IRA trustee. As a result, this exception is inapplicable.

With respect to your ruling request, we believe that, based on the information submitted and the representations contained herein, that bullion coins and bullion bars that are assets of IRAs in the physical possession of Company M or its affiliate, Company N, are collectibles within the meaning of section 408(m)(1) of the Code.

As a result, IRAs that deposit such bullion coins and bullion bars with Company M or Company N would have to treat such deposit as a distribution from the IRA in an amount equal to the cost to the IRA of such collectible.

No opinion is expressed as to the tax treatment of the transaction described herein under the provisions of any other section of either the Code or regulations which may be applicable thereto.

This letter is directed only to the taxpayer who requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

If you wish to inquire about this ruling, please contact me at , or

Sincerely yours,

Alan C. Pipkin
Manager, Technical Group 4
Employee Plans, TE/GE Division

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